

1 BILL NO. S-83-06-34

2 SPECIAL ORDINANCE NO. S-128-83

3 AN ORDINANCE approving Village of
4 Buckingham Agreement for Sewer Ex-
5 tension between North Eastern Enter-
prises, Inc. and the City of Fort
Wayne, Indiana.

6 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
7 OF THE CITY OF FORT WAYNE, INDIANA:

8 SECTION 1. That Agreement for Sewer Extension for Village
9 of Buckingham dated May 25, 1983, between North Eastern Enter-
10 prises, Inc., and the City of Fort Wayne, by and through its
11 Mayor and the Board of Public Works, for:

12 construction of a local sanitary sewer
13 described as follows:

14 Description of Sanitary Sewer Main #1.

15 A 12 inch line commencing at existing Manhole L
16 located 50 feet Southeast of the South property
17 corner of Lot 97; thence northeasterly within
18 the right-a-way line of Buckhurst Run a distance
19 of 110 feet to Manhole #1 at Station 1 plus 10;
thence northeasterly within an easement along the
East line of Buckhurst Run a distance of 180 feet
to Manhole #2 at Station 2 plus 90; thence north-
easterly within an easement along the East side
of Buckhurst Run a distance of 265 feet to Man-
hole #3 at Station 5 plus 55. This ends de-
scription of Main #1.

20 Description of Sanitary Main #3.

21 A 10 inch line commencing at the above referenced
22 Manhole #3 located 70 feet Southeast of the South-
23 east corner of Lot 54; thence northeasterly
24 within an easement along the East side of Buckhurst
Run a distance of 335 feet to Manhole #6 at Station
8 plus 90. This ends description of Sanitary Main
#3.

25 Description of Sanitary Main #2.

26 An 8 inch line commencing at the above referenced
27 Manhole #6 at Station 8 plus 90; thence northerly
28 within the right-a-way of Buckhurst Run a distance
29 of 150 feet to Manhole #10 at Station 10 plus 40;
thence northwesterly within an easement across
30 the front of Lot No. 57 and 58 a distance of 280
feet to Manhole #11 at Station 12 plus 80, said
31 manhole being located 20 foot West of the North-
32 east corner of Lot No. 58, thence westerly with
an easement along the South line of Tunebridge
Crossing a distance of 385 feet to Manhole #12
at Station 16 plus 65, said manhole being located
5 foot East of the Northeast corner of Lot No. 61.
This ends description of Sanitary Sewer Main #2.

1 Page Two

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3 no cost to the City is involved; all as more particularly set

4 forth in said Agreement, which is on file with the Office of the

5 Board of Public Works and is by reference incorporated herein,

6 made a part hereof, and is hereby in all things ratified, con-

7 firmed, and approved. Two (2) copies of said Agreement are on

8 file with the Office of the City Clerk and made available for

9 public inspection, according to law.

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11 SECTION 2. That this Ordinance shall be in full force

12 and effect from and after its passage and any and all necessary

13 approval by the Mayor.

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Victor L. Scraff

Councilmember

15 APPROVED AS TO FORM

16 AND LEGALITY

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BOB

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Screegg, seconded by Gia Quinta, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on 19, the 1 day of July, 1983, at 10:00 o'clock A.M., E.S.T.

DATE: 6-28-83

Sandra F. Kennedy CITY CLERK

Read the third time in full and on motion by Screegg, seconded by Gia Quinta, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BRADBURY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BURNS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>EISBART</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>GiaQUINTA</u>	<u>1</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHMIDT</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHOMBURG</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCRUGGS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>STIER</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>TALARICO</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>

DATE: 7-12-83

Sandra F. Kennedy CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. 1-128-83, on the 12th day of July, 1983.

ATTEST:

(SEAL)

Sandra F. Kennedy

CITY CLERK

Ray A. E. Bork
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of July, 1983, at the hour of 10:00 o'clock A.M., E.S.T.

Sandra F. Kennedy
CITY CLERK

Approved and signed by me this 14th day of July, 1983, at the hour of 1 o'clock P.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

A G R E E M E N T
F O R
S E W E R E X T E N S I O N

73-47-2
5/25/83

THIS AGREEMENT, made in triplicate this 25 day of May 1983, by and between North Eastern Enterprises, Inc., an Indiana Corporation, hereinafter referred to as "OWNER" and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "CITY", WITNESSETH:

WHEREAS, the "OWNER" desires to construct a local sanitary sewer described as follows:

Description of Sanitary Sewer Main #1.

A 12 inch line commencing at existing Manhole L located 50 feet Southeast of the South property corner of Lot 97; thence northeasterly whithin the right-a-way line of Buckhurst Run a distance of 110 feet to Manhole #1 at Station 1 plus 10; thence northeasterly within an easement along the East line of Buckhurst Run a distance of 180 feet to Manhole #2 at Station 2 plus 90; thence northeasterly within an easement along the East side of Buckhurst Run a distance of 265 feet to Manhole #3 at Station 5 plus 55. This ends description of Main #1.

Description of Sanitary Main #3.

A 10 inch line commencing at the above referenced Manhole #3 located 70 feet Southeast of the Southeast corner of Lot 54; thence northeasterly within an easement along the East side of Buckhurst Run a distance of 335 feet to Manhole #6 at Station 8 plus 90. This ends description of Sanitary Main #3.

Description of Sanitary Main #2.

An 8 inch line commencing at the above referenced Manhole #6 at Station 8 plus 90; thence northerly within the right-a-way of Buckhurst Run a distance of 150 feet to Manhole #10 at Station 10 plus 40; thence northwesterly within an easement across the front of Lot No. 57 and 58 a distance of 280 feet to Manhole #11 at Station 12 plus 80, said manhole being located 20 foot West of the Northeast corner of Lot No. 58, thence westerly with an easement along the South line of Tunbridge Crossing a distance of 385 feet to Manhole #12 at Station 16 plus 65, said manhole being located 5 foot East of the Northeast corner of Lot No. 61. This ends description of Sanitary Sewer Main #2.

in accordance with plans, specifications and profiles heretofore submitted to and approved by "CITY" and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department of "CITY" and known as the Village of Buckingham as drawn by Turnbell Engineering Company dated February 13, 1980 which plans, specifications, profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the "OWNER" has an interest, but also an adjoining land areas and;

WHEREAS, the cost of construction of said sewer is represented to be \$ 23,650.00.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

"OWNER" shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by "CITY" under private contract to be let within sixty (60) days after requisite "CITY" approval. All work and materials shall be subject to inspection by "CITY" and the right of "CITY" to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed completed and/or permanently connected into the sewer system of "CITY" until final acceptance by "CITY" and "CITY" shall accept sewage therefrom subject to such sewage service charges as may now or hereafter be regularly established by "CITY," and all further maintenance thereafter shall be borne by "CITY."

2. COST OF CONSTRUCTION

"OWNER" agrees to pay the entire cost and expense of construction of said sewer, in cash, including "CITY" engineering and inspection fees, and to hold "CITY" harmless from any liability for claims connected therewith.

3. AREA OF "OWNER"

Said sewer when accepted by the "CITY" will serve the following described real estate: Lots numbered, 20 through 32; 50 through 60; and 97 as platted within the Village of Buckingham Section I. - See Exhibit "A."

As "OWNER" will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by "CITY" for connections to "CITY" sewer mains and treatment of sewage therefrom.

4. AREA CONNECTION CHARGE

The area connection charges established by the City under the North Maumee Service Area Resolution No. 73-22-2 as recorded in Allen County Recorders Office under 83-008777 are hereby made applicable for the net "Area of the Developer" as shown on Exhibit "A." The total area of the developer is 68.02 acres. The unassessable acreage being parks, lakes, and street area equal 21.46 acres. The assessable acreage is 45.56 acres for residential purposes. The net assessment shall be 46.56 acres times \$700.00 per acre totaling \$31,892.00 payable in two installments of \$13,400 and \$18,492.

5. BOND

This contract is subject to "OWNER" and/or his contractor furnishing a satisfactory Maintenance Bond for 25 percent of the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by "CITY."

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste in accordance with City Municipal Code.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

"OWNER," for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce CITY to execute and ratify this contract, said "OWNER," for himself, his successors and assigns, agrees by this contract to vest in "CITY" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

"OWNER" further agrees that any deeds, contracts, or other instruments of conveyance made by "OWNER," its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article which provisions shall run with the land and the acceptance of the delivery of any such instruments from "OWNER," his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

"OWNER" further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

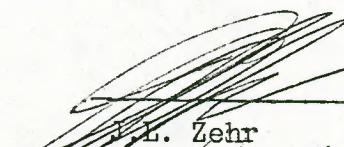
Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of such land or of the territory in which it is located or of the area served by said sewer. (I.C. 36-9-22-2, as added by Acts 1981, P.L. 309, 395)

7. COUNCILMANIC APPROVAL

It is understood and agreed taht this contract is in all respects subject to approval by the Common Council of City, by duly appointed Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

NORTH EASTERN ENTERPRISES, INC.

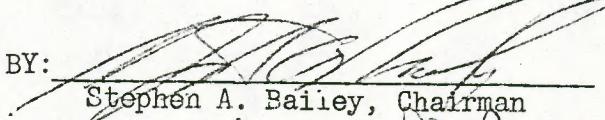

J. L. Zehr President

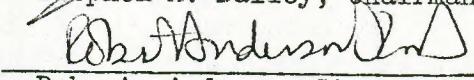

Cathy Fitzgerald Assistant Sec.

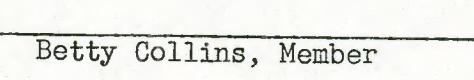
"CITY"
MAYOR

BY: 
Win Moses, Jr.,

BOARD OF PUBLIC WORKS

BY: 
Stephen A. Bailey, Chairman

BY: 
Roberta Anderson-Staten, Member

BY: 
Betty Collins, Member

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of such land or of the territory in which it is located or of the area served by said sewer. (I.C. 36-9-22-2, as added by Acts 1981, P.L. 309, 395)

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NORTH EASTERN ENTERPRISES, INC.

J.L. Zehr

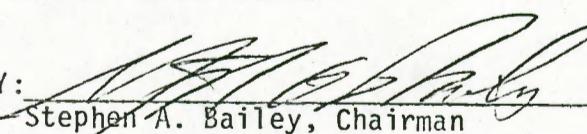
President

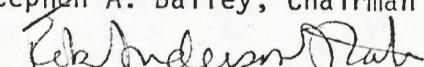
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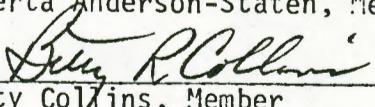
"CITY"
MAYOR

BY: 
Win Moses, Jr.

BOARD OF PUBLIC WORKS

BY: 
Stephen A. Bailey, Chairman

BY: 
Roberta Anderson-Staten, Member

BY: 
Betty Collins, Member

ATTEST:

Sandra E. Kennedy
Sandra E. Kennedy, Clerk

APPROVED AS TO FORM AND LEGALITY:

R. Snouffer
ASSOCIATE CITY ATTORNEY
Assoc. City Attorney

STATE OF INDIANA
COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. L. Zehr, President and Cathy Fitzgerald, Asst. Sec. who acknowledged the execution of the foregoing agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 27 day of April, 1983.

Betty J. Mitchell
Notary Public Betty J. Mitchell
Resident of Allen County

My Commission Expires:

May 5, 1985

This instrument prepared by
Orrin Sessions, Land Planner

STATE OF INDIANA
COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Win Moses, Jr., Mayor, City of Fort Wayne, Indiana, and Stephen A. Bailey, Chairman, Board of Public Works, and Roberta Anderson Staten, and Betty R. Collins, Members, respectively, of the Board of Public Works, and acknowledged the execution of the foregoing Agreement for Sewer Extension, as and for the uses and purposes therein contained.

WITNESS my hand and Notarial Seal this 35 day of May, 1983.

Sharon J. Lehman
Notary Public
Resident of Allen County, Indiana

My Commission expires:

7-6-86

BILL NO. S-83-06-34

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN
ORDINANCE approving Village of Buckingham Agreement for
Sewer Extension between North Eastern Enterprises, Inc. and
the City of Fort Wayne, Indiana

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

VICTURE L. SCRUGGS, CHAIRMAN

Victure Scruggs

SAMUEL J. TALARICO, VICE CHAIRMAN

Samuel J. Talarico

DONALD J. SCHMIDT

Donald J. Schmidt

MARK E. GIAQUINTA

Mark E. GiaQuinta

PAUL M. BURNS

Paul M. Burns

Concurrent on 7/12/83 Sandra F. Kennedy

6326

TITLE OF ORDINANCE Village of Buckingham Agreement for Sewer Extension bet
 & North Eastern Enterprises, Inc.

DEPARTMENT REQUESTING ORDINANCE Board of Public Works S-83-0634

SYNOPSIS OF ORDINANCE Village of Buckingham Agreement for Sewer Extension b
City & North Eastern Enterprises, whereas owner desires to construct a loc
san. sewer described as follows: Description of San. Sewer Main #1 - A 12
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westerly with an easement along the South line of Tunbridge Crossing a
distance of 385 feet to Manhole #12 at Station 16 plus 65, said manhole bei
located 5 foot East of the Northeast corner of Lot No. 61.

EFFECT OF PASSAGE Better sanitary conditions

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) No cost to City

ASSIGNED TO COMMITTEE